

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

F'REAL FOODS, LLC and RICH PRODUCTS
CORPORATION,

Plaintiffs,

v.

HAMILTON BEACH BRANDS, INC. and
HERSHEY CREAMERY COMPANY

Defendants.

C.A. No. 16-41-CFC

CONSOLIDATED

[REDACTED]

**DECLARATION OF FRANCIS DIGIOVANNI IN SUPPORT OF
DEFENDANTS' ANSWERING BRIEF IN OPPOSITION TO PLAINTIFFS'
MOTION TO DECLARE THIS CASE EXCEPTIONAL AND AWARD
ATTORNEYS' FEES PURSUANT TO 35 U.S.C. § 285 (D.I. 300)**

I, Francis DiGiovanni, declare:

1. I am a licensed attorney with the law firm of Drinker Biddle & Reath LLP, counsel for defendants Hamilton Beach Brands, Inc. and Hershey Creamery Company (collectively "Defendants") in the above-captioned action. I am admitted to practice in this District, I am over 18 years of age, and have personal knowledge of the matters stated in this declaration and would testify truthfully to them if called upon to do so. I submit this declaration in support of Defendants' Answering Brief in Opposition to Plaintiffs' Motion to Declare This Case Exceptional and Award

Attorneys' Fees Pursuant to 35 U.S.C. § 285 (D.I. 300), filed contemporaneously herewith.

2. Attached hereto as Exhibit A is a true and correct copy of DTX058, a trial exhibit in this action.

3. Attached hereto as Exhibit B is a true and correct copy of DTX059, a trial exhibit in this action.

4. Attached hereto as Exhibit C is a true and correct copy of Plaintiffs f' real Foods LLC's and Rich Products Corporation's Initial Disclosures (dated May 19, 2016), served in this action.

5. Attached hereto as Exhibit D is a true and correct copy of Plaintiff f' real Foods, LLC's Motion for Voluntary Dismissal, C.A. No. 14-1270 (GMS), D.I. 106 (Jan. 26, 2016).

6. Attached hereto as Exhibit E is a true and correct copy of an email from R. Thakrar, dated April 29, 2019 plus attachment.

7. Attached hereto as Exhibit F is a true and correct copy of excerpts of the Transcript of Telephone Conference on December 29, 2015 in this action.

8. Attached hereto as Exhibit G is a true and correct copy of excerpts of the Transcript of Hearing on November 8, 2018 in this action.

9. Attached hereto as Exhibit H is a true and correct copy of excerpts of the Transcript of Telephone Conference on November 27, 2018 in this action.

10. Attached hereto as Exhibit I is a true and correct copy of an email from B. Silverstein, dated December 6, 2017.

11. Attached hereto as Exhibit J is a true and correct copy of HBBF0013236-38, produced in this action.

12. Attached hereto as Exhibit K is a true and correct copy of HBBF0013240-50, produced in this action.

13. Attached as Exhibit L is a true and correct copy of excerpts of deposition of Brian P. Williams, dated December 17, 2017, taken in this action.

14. Attached as Exhibit M is a true and correct copy of excerpts of Exhibit 4 to deposition of Michael Sanford, taken in this action.

15. Attached hereto as Exhibit N is a true and correct copy of Defendant Hamilton Beach Brands, Inc.'s Response to Plaintiffs' Second Set of Interrogatories, dated March 30, 2018, served in this action.

16. Attached hereto as Exhibit O is a true and correct copy of excerpts of HBBF172883, produced in this action.

17. Attached hereto as Exhibit P is a true and correct copy of an email from W. Foster, dated September 20, 2019.

18. Attached hereto as Exhibit Q is a true and correct copy of an email from T. Rahmeier, dated June 21, 2018.

19. Attached as Exhibit R is a true and correct copy of Exhibit 1 to deposition of Greg Trepp, taken in this action.

20. Attached hereto as Exhibit S is a true and correct copy of DTX434, a trial exhibit in this action.

21. Attached hereto as Exhibit T is a true and correct copy of DTX439, a trial exhibit in this action.

22. Attached as Exhibit U is a true and correct copy of excerpts of deposition of Brian O'Flynn, dated March 22, 2018, taken in this action.

23. Attached as Exhibit V is a true and correct copy of excerpts of deposition of Henry R. Wood, dated March 21, 2018, taken in this action.

24. Attached hereto as Exhibit W is a true and correct copy of excerpts of the Trial Transcript of Proceedings in this action.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed this 21st day of October, 2019, in Wilmington, Delaware.

/s/ Francis DiGiovanni
Francis DiGiovanni
francis.digiovanni@dbr.com
DRINKER BIDDLE & REATH LLP